THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.19200 OF 2006

ORDER:

The petitioner was granted licence under the provisions of the Andhra Pradesh Excise (Lease of Right of Selling by Shop and Conditions of License) Rules, 2005, having participated in the auction in respect of a shop at Tirupati Municipality.

It is stated that the petitioner had offered Rs.50,04,000/- and pursuant to the licence granted, he has been running the shop since 1.7.2006. While so, the 6th respondent herein, was granted permission to run a Bar & Restaurant in the premises, which is located just next to the petitioner's shop. Accordingly, he started a Bar & Restaurant from 9.9.2006 onwards. Aggrieved by the said action of the respondents, this writ petition is filed seeking a declaration that the action of the 5th respondent in issuing NOC to the 6th respondent for running a Bar and Restaurant at premises bearing No.18-8-1 is arbitrary and illegal. He also sought a declaration that the statutory rules issued in G.O.Ms.No.596, dated 26.5.2006, which do not contain a provision to maintain a minimum distance of 100 meters between the two licensed premises, are unconstitutional and arbitrary.

having heard the learned counsel for both the parties and having regard to the scheme of A.P. Excise Act, 1968 (for short "the Act") and the Rules made thereunder, I do not find any substance in the contention raised by the petitioner. Admittedly, the petitioner and the 6th respondent are holding two different kinds of licenses governed by two different sets of Statutory Rules. Whereas the petitioner is holding a licence to carry retail sales by shop under the provisions of Andhra Pradesh Excise (Lease of Right of Selling by Shop and Conditions of License) Rules, 2005, the 6th respondent is granted licence to run a Bar and Restaurant under the provisions of the Andhra Pradesh Excise (Grant of License of Selling by Bar and conditions of Licence)

Rules, 2005. In the absence of any provision under the Act or the Rules made thereunder, with regard to the minimum/maximum distance between the licensed premises of A-4 licensee and B2 licence i.e., a retail shop and a Bar and Restaurant, the action of the 5th respondent in granting NOC to the 6th respondent to locate his Bar and Restaurant in the premises bearing No.18-8-1, cannot be found fault with on the ground that the same is located next to the petitioner's licensed premises.

The decisions cited by the learned counsel for the petitioner viz., **M. Peraiah v. Commissioner of Prohibition & Excise**[1]; **K. Vidyasagara v. Asst. Commissioner of Prohibition**[2]; **State of A.P. v. Grag Martin Distillery Pvt. Ltd.,** (2000(5) ALT 34)[3] and **Vishwanatha Ravi Kumar v. Government of A.P.**[4] are in no way relevant for the purpose of the issue in the case on hand.

Accordingly, the writ petition is dismissed. No costs.

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(G. ROHINI, J.)

27th September, 2006.
Kgr

THE HON'BLE Ms. JUSTICE G. ROHINI

WRIT PETITION No.19200 OF 2006

27th September, 2006.

Between:

Chandra Wines, a Proprietory concern,
Situated at Shop No.19-8-10, Royyala
Cheruvu Road, Tirupathi town, Chittoor
District, represented byits Proprietor –
Shri P. Mallikarjuna Reddy. .. Petitioner.

And

Prohibition & Excise Superintendent, Tirupathi
Excise Deistrict, Government of A.P.,
Office situated at tirupathi Town & Mandal,
Chittoor District and others. .. Respondents.

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[1] (1998(2) ALT 417);

[2] (1998(4) ALT 463);

[3] (2000(5) ALT 34);

[4] (2001 (6) ALT 406).